

DCP:MEB/HDM
F. #2019R01694

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JAN 10 2020 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

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UNITED STATES OF AMERICA

I N F O R M A T I O N

- against -

JEFFREY AUERBACH,

Cr. No. 19-607 (PKC)
(T. 18, U.S.C., §§ 371, 981(a)(1)(C) and
3551 et seq.; T. 21, U.S.C., § 853(p);
T. 28, U.S.C., § 2461(c))

Defendant.

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THE UNITED STATES ATTORNEY CHARGES:

CONSPIRACY TO COMMIT SECURITIES FRAUD

1. In or about and between July 2014 and September 2015, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant JEFFREY AUERBACH, together with others, did knowingly and willfully conspire to use and employ one or more manipulative and deceptive devices and contrivances, contrary to Rule 10b-5 of the Rules and Regulations of the United States Securities and Exchange Commission, Title 17, Code of Federal Regulations, Section 240.10b-5, by: (a) employing one or more devices, schemes and artifices to defraud; (b) making one or more untrue statements of material fact and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaging in one or more acts, practices and courses of business which would and did operate as a fraud and deceit upon investors and potential investors in NXT-ID, in connection with the purchase and sale of investments in NXT-ID,

directly and indirectly, by use of means and instrumentalities of interstate commerce and the mails, contrary to Title 15, United States Code, Sections 78j(b) and 78ff.

2. In furtherance of the conspiracy and to effect its objects, within the Eastern District of New York and elsewhere, the defendant JEFFREY AUERBACH, together with others, committed, and caused to be committed, among others, at least one of the following:

OVERT ACTS

(a) On or about March 3, 2015, at approximately 1:41 p.m., Co-Conspirator 1, an individual whose identity is known to the United States Attorney, emailed AUERBACH, "Can we get some support today?"

(b) On or about September 28, 2015, AUERBACH arranged for Co-Conspirator 2, an individual whose identity is known to the United States Attorney, to retrieve a \$5,000 cash kickback from a location near AUERBACH's residence in New York, New York.

(Title 18, United States Code, Sections 371 and 3551 et seq.)

CRIMINAL FORFEITURE ALLEGATION


3. The United States hereby gives notice to the defendant that, upon his conviction of the offense charged herein, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which require any person convicted of such offense to forfeit any property, real or personal, constituting, or derived from, proceeds obtained directly or indirectly as a result of such offense.

4. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Section 981(a)(1)(C); Title 21, United States Code, Section 853(p); Title 28, United States Code, Section 2461(c))


RICHARD P. DONOGHUE
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

F. # 2019R01694
FORM DBD-34
JUN. 85

No.

UNITED STATES DISTRICT COURT
EASTERN *District of* NEW YORK
CRIMINAL DIVISION

THE UNITED STATES OF AMERICA

vs.

JEFFREY AUERBACH,

Defendant.

INFORMATION

(T. 18, U.S.C., §§ 371, 981(a)(1)(C) and 3551 et seq.; T. 21, U.S.C., §
853(p); T. 28, U.S.C., § 2461(c))

A true bill.

Foreperson

Filed in open court this ----- *day,*

of ----- *A.D. 20* -----

Clerk

Bail, \$ -----

Mark E. Bini and Hiral D. Mehta, Assistant U.S. Attorneys (718) 254-7000